

INTRODUCTION – FEDERAL LAW

This section provides an outline of some of the significant Federal legislation affecting the operation and activities of the Natural Resources Conservation Service. It is summarized from the “Materials in Support of Environmental Evaluation Activities” (Weston 1990 ¹). That source provides an extensive collection of laws, rules, and regulations that affect the way the Natural Resources Conservation Service conducts activities on private and public lands in the United States. While the reference was published in 1990, many of the citations are valid to this day.

Of specific interest, one can trace the chronological/historical development of legislation and regulations affecting natural resource use and management. This is of significance to the NRCS in that employees and others can follow the legislative mandates or legitimization for the entire spectrum of programs and policies administered by the agency.

Of special importance underlying all United States and some State and local laws is an understanding of the Constitution of the United States. The Constitution , the Bill of Rights (Amendments 1-10) and the additional Amendments (11-27) provide the foundation and rationale for laws and rulemaking. Readers who seek a more in-depth understanding for the basis of law are encouraged to study and review the Constitution. A World Wide Web site for review may be found at:

http://www.archives.gov/exhibit_hall/charters_of_freedom/constitution/constitution.html .

Readers are cautioned in that there are inconsistencies in the format of citations and resources as well as to the timeliness of the citations. Most of these can be verified in other NRCS manuals or handbooks or researched further on the Internet at a variety of U.S. Government and other sites. Regulations issued by executive branch agencies are available in the Code of Federal Regulations. Proposed and recently adopted regulations may be found in the Federal Register. The three sections that follow, Federal Register, United States Code, and Code of Federal Regulations present some introductory information about United States. law. Readers are urged to consult the most current source of Federal Laws to be certain that all language is current.

¹ Weston, R. F. Inc. 1990. Roy F. Weston, Inc., 955 L'Enfant Plaza, S.W., Washington, D.C. 20024.

FEDERAL REGISTER

The Federal Register is the official daily publication for Rules, Proposed Rules, and Notices of Federal agencies and organizations, as well as Executive Orders and other Presidential Documents.

UNITED STATES CODE

The United States Code contains a consolidation and codification of the general and permanent laws of the United States arranged according to subject matter under 50 title headings, in alphabetical order to a large degree. It sets out the current status of the laws, as amended, without repeating all the language of the amendatory acts except where necessary. The Code is declared to be prima facie evidence of those laws. Its purpose is to present the laws in a concise and usable form without requiring recourse to the many volumes of the Statutes at Large containing the individual amendments. The Code is prepared by the Law Revision Counsel of the House of Representatives. New editions are published every six years and cumulative supplements are published after the conclusion of each regular session of the Congress.

CODE OF FEDERAL REGULATIONS

The Code of Federal Regulations (CFR) is a codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. The CFR is divided into 50 titles which represent broad areas subject to Federal regulation. Each title is divided into chapters which usually bear the name of the issuing agency. Each chapter is further subdivided into parts covering specific regulatory areas. Large parts may be subdivided into subparts.

ADMINISTRATIVE PROCEDURES AND FREEDOM OF INFORMATION

- **Administrative Procedure Act (5 U.S.C. Subchapter II)**

The Administrative Procedures Act provides regulations that govern agency rulemaking and public access to that process (notice and comment). It also addresses procedures to be followed to allow the public free access to information that may be submitted to a court of law. Source: http://www.archives.gov/federal_register/public_laws/acts.html#apa

- **Freedom of Information Act (5 U.S.C. s/s 552 (1966))**

The Freedom of Information Act provides specifically that “any person” can make requests for government information. Citizens who make requests are not required to identify themselves or explain why they want the information they have requested. The position of Congress in passing FOIA was that the workings of government are “for and by the people” and that the benefits of government information should be made available to everyone.

All branches of the Federal government must adhere to the provisions of FOIA with certain restrictions for work in progress (early drafts), enforcement confidential information, classified documents, and national security information. Source: <http://www.epa.gov/region5/defs/html/foia.htm>

AIR QUALITY

- **Clean Air Act** <http://www.epa.gov/oar/caa/contents.html>

The Clean Air Act is the comprehensive Federal law that regulates air emissions from area, stationary, and mobile sources. This law authorizes the U.S. Environmental Protection Agency to establish National Ambient Air Quality Standards (NAAQS) to protect public health and the environment.

The goal of the Act was to set and achieve NAAQS in every state by 1975. The setting of maximum pollutant standards was coupled with directing the states to develop state implementation plans (SIP's) applicable to appropriate industrial sources in the state.

The Act was amended in 1977 primarily to set new goals (dates) for achieving attainment of NAAQS since many areas of the country had failed to meet the deadlines. The 1990 amendments to the Clean Air Act in large part were intended to meet unaddressed or insufficiently addressed problems such as acid rain, ground-level ozone, stratospheric ozone depletion, and air toxics. Source: <http://www.epa.gov/region5/defs/html/caa.htm>

- **40 CFR 50 - National Primary and Secondary Ambient Air Quality Standards**

National primary ambient air quality standards define levels of air quality which the Administrator judges are necessary, with an adequate margin of safety, to protect the public health. National secondary ambient air quality standards define levels of air quality which the Administrator judges necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant. Such standards are subject to revision, and additional primary and secondary standards may be promulgated as the Administrator deems necessary to protect the public health and welfare. Source: Start at -

http://www.access.gpo.gov/nara/cfr/waisidx_01/40cfr50_01.html

- **40 CFR 81 - Designation of Areas for Air Quality Planning Purposes**

Air quality control regions designated by the Administrator pursuant to section 107 of the Act are listed in this subpart. Regions so designated are subject to revision, and additional regions may be designated, as the Administrator determines necessary to protect the public health and welfare. Source: Start at -

http://www.access.gpo.gov/nara/cfr/waisidx_01/40cfr81_01.html

COASTAL ZONES

- **16USC1451**

TITLE 16—CONSERVATION

CHAPTER 33--COASTAL ZONE MANAGEMENT

Sec. 1451. Congressional findings

The Congress finds that--

(a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone.

(b) The coastal zone is rich in a variety of natural, commercial, recreational, ecological, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation.

(c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion.

(d) The habitat areas of the coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations.

(e) Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost.

(f) New and expanding demands for food, energy, minerals, defense needs, recreation, waste disposal, transportation, and industrial activities in the Great Lakes, territorial sea, exclusive economic zone, and Outer Continental Shelf are placing stress on these areas and are creating the need for resolution of serious conflicts among important and competing uses and values in coastal and ocean waters;

(g) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values.

(h) In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present state and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate.

(i) The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

(j) The national objective of attaining a greater degree of energy self-sufficiency would be advanced by providing Federal financial assistance to meet state and local needs resulting from new or expanded energy activity in or affecting the coastal zone.

(k) Land uses in the coastal zone, and the uses of adjacent lands which drain into the coastal zone, may significantly affect the quality of coastal waters and habitats, and efforts to control coastal water pollution from land use activities must be improved.

(l) Because global warming may result in a substantial sea level rise with serious adverse effects in the coastal zone, coastal states must anticipate and plan for such an occurrence.

(m) Because of their proximity to and reliance upon the ocean and its resources, the coastal states have substantial and significant interests in the protection, management, and development of the resources of the exclusive economic zone that can only be served by the active participation of coastal states in all Federal programs affecting such resources and, wherever appropriate, by the development of state ocean resource plans as part of their federally approved coastal zone management programs.

(Pub. L. 89-454, title III, Sec. 302, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1280; amended Pub. L. 94-370, Sec. 2, July 26, 1976, 90 Stat. 1013; Pub. L. 96-464, Sec. 2, Oct. 17, 1980, 94 Stat. 2060; Pub. L. 101-508, title VI, Sec. 6203(a), Nov. 5, 1990, 104 Stat. 1388-300.)

Source: <http://frwebgate3.access.gpo.gov/cgi-bin/waisgate.cgi?WAISdocID=9063067551+1+0+0&W AISaction=retrieve>

- **15 CFR 930 - Federal Consistency with Approved Coastal Management Programs (June 25, 1979; June 24, 1983; August 30, 1985)**

No source available.

- **PL 92-583 - Coastal Zone Management Act of 1972, as amended (16 USC 1451)**

The Congress finds that--

(a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone. (b) The coastal zone is rich in a variety of natural, commercial, recreational, ecological, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation.

(c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion.

(d) The habitat areas of the coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations.

(e) Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost.

(f) New and expanding demands for food, energy, minerals, defense needs, recreation, waste disposal, transportation, and industrial activities in the Great Lakes, territorial sea, exclusive economic zone, and Outer Continental Shelf are placing stress on these areas and are creating the need for resolution of serious conflicts among important and competing uses and values in coastal and ocean waters;

(g) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values.

(h) In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present state and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate.

(i) The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

(j) The national objective of attaining a greater degree of energy self-sufficiency would be advanced by providing Federal financial assistance to meet state and local needs resulting from new or expanded energy activity in or affecting the coastal zone.

(k) Land uses in the coastal zone, and the uses of adjacent lands which drain into the coastal zone, may significantly affect the quality of coastal waters and habitats, and efforts to control coastal water pollution from land use activities must be improved.

(l) Because global warming may result in a substantial sea level rise with serious adverse effects in the coastal zone, coastal states must anticipate and plan for such an occurrence.

(m) Because of their proximity to and reliance upon the ocean and its resources, the coastal states have substantial and significant interests in the protection, management, and development of the resources of the exclusive economic zone that can only be served by the active participation of coastal states in all Federal programs affecting such resources and, wherever appropriate, by the development of state ocean resource plans as part of their federally approved coastal zone management programs.

Source: <http://www.access.gpo.gov/uscode/uscmmain.html>

- Coastal Zone Management Activities in the United States (National Oceanic and Atmospheric Administration, August 1987)
- Federal Coastal Programs Review (NOAA, December 1985)
- Coastal Zone Management, Information Exchange Status and Evaluation of State Programs (January 1989)

CULTURAL RESOURCES

- **16USC470-1 - TITLE 16—CONSERVATION
CHAPTER 1A--HISTORIC SITES, BUILDINGS, OBJECTS, AND
ANTIQUITIES
SUBCHAPTER II--NATIONAL HISTORIC PRESERVATION**

Sec. 470-1. Declaration of policy of the Federal Government

It shall be the policy of the Federal Government, in cooperation with other nations and in partnership with the States, local governments, Indian tribes, and private organizations and individuals to--

(1) use measures, including financial and technical assistance, to foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations;

(2) provide leadership in the preservation of the prehistoric and historic resources of the United States and of the international community of nations and in the administration of the national preservation program in partnership with States, Indian tribes, Native Hawaiians, and local governments;

(3) administer federally owned, administered, or controlled prehistoric and historic resources in a spirit of stewardship for the inspiration and benefit of present and future generations;

(4) contribute to the preservation of nonfederally owned prehistoric and historic resources and give maximum encouragement to organizations and individuals undertaking preservation by private means;

(5) encourage the public and private preservation and utilization of all usable elements of the Nation's historic built environment; and

(6) assist State and local governments, Indian tribes and Native Hawaiian organizations and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.

(Pub. L. 89-665, Sec. 2, as added Pub. L. 96-515, title I, Sec. 101(a), Dec. 12, 1980, 94 Stat. 2988; amended Pub. L. 102-575, title XL, Sec. 4002, Oct. 30, 1992, 106 Stat. 4753.)

Amendments

1992--Par. (2). Pub. L. 102-575, Sec. 4002(1), inserted ``and in the administration of the national preservation program in partnership with States, Indian tribes, Native Hawaiians, and local governments" after ``community of nations".

Par. (6). Pub. L. 102-575, Sec. 4002(2), inserted ``Indian tribes and Native Hawaiian organizations" after ``local governments".

Source: <http://www.access.gpo.gov/uscode/uscmmain.html>

- **16USC470aa - CHAPTER 1B--ARCHAEOLOGICAL RESOURCES PROTECTION**

Sec. 470aa. Congressional findings and declaration of purpose

(a) The Congress finds that--

(1) archaeological resources on public lands and Indian lands are an accessible and irreplaceable part of the Nation's heritage;

(2) these resources are increasingly endangered because of their commercial attractiveness;

(3) existing Federal laws do not provide adequate protection to prevent the loss and destruction of these archaeological resources and sites resulting from uncontrolled excavations and pillage; and

(4) there is a wealth of archaeological information which has been legally obtained by private individuals for noncommercial purposes and which could voluntarily be made available to professional archaeologists and institutions.

(b) The purpose of this chapter is to secure, for the present and future benefit of the American people, the protection of archaeological resources and sites which are on public lands and Indian lands, and to foster increased cooperation and exchange of information between governmental authorities, the professional archaeological community, and private individuals having collections of archaeological resources and data which were obtained before October 31, 1979.

(Pub. L. 96-95, Sec. 2, Oct. 31, 1979, 93 Stat. 721.)

Short Title

Section 1 of Pub. L. 96-95 provided that: ``This Act [enacting this chapter] may be cited as the `Archaeological Resources Protection Act of 1979'."

Source: <http://www.access.gpo.gov/uscode/uscmmain.html>

- **36 CFR Part 800 - Protection of Historic Properties**

Section 106 of the National Historic Preservation Act requires Federal agencies to take into account the effects of their undertakings on historic properties and afford the Council a reasonable opportunity to comment on such undertakings. The procedures in this part define how Federal agencies meet these statutory responsibilities. The section 106 process seeks to accommodate historic preservation concerns with the needs of Federal

undertakings through consultation among the agency official and other parties with an interest in the effects of the undertaking on historic properties, commencing at the early stages of project planning. The goal of consultation is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties. Source:

<http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=36&PART=800&SECTION=1&YEAR=2001&TYPE=TEXT> or start at: http://www.access.gpo.gov/nara/cfr/waisidx_01/36cfr800_01.html

- Title 42 GM Part 401 - Archaeological and Historic Properties
- Section 106, Step-by-Step
- Programmatic MOA between SCS and Advisory Council on Historic Preservation and the National Conference of State Historic Preservation Officers (February 7, 1984)
- Policy Statement Regarding Treatment of Human Remains and Grave Goods (September 27, 1988), Advisory Council on Historic Preservation
- **7 CFR 3100 - Cultural and Environmental Quality, Subpart C - Enhancement, Protection, and Management of the Cultural Environment**

(a) This subpart establishes USDA policy regarding the enhancement, protection, and management of the cultural environment.

(b) This subpart establishes procedures for implementing Executive Order 11593, and regulations promulgated by the Advisory Council on Historic Preservation (ACHP) ``Protection of Historical and Cultural Properties" in 36 CFR part 800 as required by Sec. 800.10 of those regulations.

(c) Direction is provided to the agencies of USDA for protection of the cultural environment.

Source: http://www.access.gpo.gov/nara/cfr/waisidx_01/7cfr3100_01.html

- **36 CFR 805 Procedures for the Implementation of NEPA**

(a) The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.) establishes national policies and goals for the protection of the environment. Section 102(2) of NEPA contains certain procedural requirements directed toward the attainment of such goals. In particular, all Federal agencies are required to give appropriate consideration to the environmental effects of their proposed actions in their decisionmaking and to prepare detailed environmental statements on recommendations or reports on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.

(b) Executive Order 11991 of May 24, 1977, directed the Council on Environmental Quality (CEQ) to issue regulations to implement the procedural provisions of NEPA. Accordingly, CEQ issued final NEPA regulations (40 CFR parts 1500-1508) on November 29, 1978, which are binding on all Federal agencies as of July 30, 1979. These regulations provide that each Federal agency shall as necessary adopt implementing procedures to supplement the regulations. Section 1507.3(b) of the NEPA regulations identifies those sections of the regulations which must be addressed in agency procedures.

Source: http://www.access.gpo.gov/nara/cfr/waisidx_01/36cfr805_01.html

– Working with Section 106 [National Historic Preservation Act] (National Bulletin 38)

ENDANGERED AND THREATENED SPECIES

- **Endangered Species Act (7 U.S.C. 136; 16 U.S.C. 460 et seq. (1973))**

The Endangered Species Act provides a program for the conservation of threatened and endangered plants and animals and the habitats in which they are found. The U.S. Fish and Wildlife Service of the Department of the Interior maintains the list of 632 endangered species (326 are plants) and 190 threatened species (78 are plants). Species include birds, insects, fish, reptiles, mammals, crustaceans, flowers, grasses, and trees.

Anyone can petition FWS to include a species on this list. The law prohibits any action, administrative or real, that results in a "taking" of a listed species, or adversely affects habitat. Likewise, import, export, interstate, and foreign commerce of listed species are all prohibited.

EPA's decision to register a pesticide is based in part on the risk of adverse effects on endangered species as well as environmental fate (how a pesticide will affect habitat). Under FIFRA, EPA can issue emergency suspensions of certain pesticides to cancel or restrict their use if an endangered species will be adversely affected. Under a new program, EPA, FWS, and USDA are distributing hundreds of county bulletins that include habitat maps, pesticide use limitations, and other actions required to protect listed species.

- **7 CFR 650.22 - Rare, Threatened, and Endangered Species of Plants and Animal**

Rare, threatened, and endangered species of plants and animals.

(a) Background. (1) A variety of plant and animal species of the United States are so reduced in numbers that they are threatened with extinction. The disappearance of any of these would be a biological, cultural, and in some instances an economic loss. Their existence contributes to scientific knowledge and understanding, and their presence adds interest and variety to life.

(2) The principal hazard to threatened and endangered species is the destruction or deterioration of their habitats by human activities such as industrialization, urbanization, agriculture, lumbering, recreation, and transportation. These activities of man will continue but the necessity of recognizing their adverse impacts and selecting alternatives that minimize or eliminate such impacts on threatened and endangered species is imperative.

(3) The Endangered Species Act of 1973 (Pub. L. 93-205, 87 Stat. 884 (16U.S.C. 1531 et seq.)) provides a means whereby the ecosystems upon which endangered and threatened species depend may be maintained and a program for the conservation of such species. The Act also provides that, in addition to the Department of the Interior, "All other federal departments and agencies shall, in consultation with and with the assistance of the Secretary (of Interior), utilize their authorities for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected states, to be critical." The Act also:

(i) Defines endangered species as any species in danger of extinction throughout all or a significant portion of its range and threatened species as any species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act uses the category "threatened." The term "rare" is not used.

(ii) Further defines species as including any subspecies of fish or wildlife or plants and any other group of fish and wildlife of the same species or smaller taxa in common spatial arrangements that interbreed when mature.

(iii) Provides for the Secretary of the Interior to enter into cooperative agreements with states for the purpose of implementing state programs for the conservation of endangered and threatened fish and wildlife. This assistance may include financial grants.

(iv) Provides national lists of endangered and threatened animal and plant species to be maintained by the Secretary of the Interior and published in the Federal Register. When resident fish and wildlife are added to the list, the affected states are to be consulted by the Secretary. The Secretary of the Smithsonian Institution is preparing a list of endangered or threatened plant species.

(b) Policy. The Act gives **NRCS** additional direction for participation in the conservation and protection of endangered and threatened species. As the principal federal agency concerned with land use planning of privately owned rural land and with professional conservation employees headquartered in almost every county, NRCS is uniquely capable of playing a vital role. Additional training will be provided as needed to meet NRCS responsibilities. **NRCS** will assist in the conservation of threatened and

endangered species and consistent with legal requirements avoid or prevent activities detrimental to such species. **NRCS** concern for these species will not be limited to those listed by the Secretary of the Interior and published in the Federal Register, but will include species designated by state agencies as rare, threatened, endangered, etc.

(c) Responsibility--(1) **NRCS** national office. The Administrator will arrange for consultation and coordination of **NRCS** national office activities with the U.S. Fish and Wildlife Service, other federal agencies, and national organizations.

(2) Technical service center. The TSC director will, within the group of states served by the TSC arrange for consultation and coordination with regional representatives of the U.S. Fish and Wildlife Service, other Federal agencies, and national and regional organizations.

(3) **NRCS** state office. The state conservationist will arrange for consultation and coordination with the state fish and game or conservation agency, other state agencies, state organizations and foundations, conservation districts, and state representatives of federal agencies and national organizations.

(d) Coordination and implementation. (1) The **NRCS** national office will:

(i) Within the framework of national legislation, USDA agreements, and **NRCS** objectives, develop **NRCS** policies and directives for guiding agency efforts that will protect threatened and endangered species and for avoiding actions that jeopardize the continued existence of such species and their critical habitats.

(ii) Maintain needed liaison and develop mutual understanding with the U.S. Fish and Wildlife Service and other concerned federal agencies.

(iii) Establish procedures for periodic review of **NRCS** participation in the national effort to conserve these species.

(2) The TSC director will: (i) Within the framework of **NRCS** policies and guidelines, arrange for needed liaison and understanding with regional counterparts of other federal agencies within the group of states served by the TSC and keep state conservationists informed of developments within such states.

(ii) Provide guidance and assistance to state conservationists in carrying out **NRCS** policies and guidelines.

(3) The state conservationist will develop procedures to establish working relationships with other concerned federal agencies, state fish and wildlife or conservation agencies, conservation districts, concerned scientists in state university systems and natural history museums, and other informed persons and organizations to offer assistance in:

(i) Preparing or maintaining lists of the state's threatened and endangered species.

(ii) Determining the geographic occurrence of endangered and threatened species, the nature of their habitat, and that portion of the habitat that is critical to the survival, maintenance, or increase of these species.

(iii) Discussing the kinds of measures important to preserve their habitat.

(iv) A monitoring program that would obtain advanced warning of actions or conditions that could further endanger these species, thereby enabling **NRCS** and others to take appropriate protective action.

(v) Assisting recovery teams, as appropriate, in preparing species recovery plans of those endangered and threatened species included in Federal lists.

(4) The state conservationist will also:

(i) Keep **NRCS** area and field offices informed of species listed as being threatened or endangered, geographic area in which they are found, and information such as their numbers, preferred habitat, and critical factors.

(ii) Review the status of threatened and endangered species each December and send a report of the review to the Administrator.

(5) **NRCS** district conservationists within the geographic range of threatened and endangered species will examine conservation district programs and **NRCS** operations to evaluate their effects on these species, and recommend to district officials and the state conservationist any action needed for their protection.

(6) **NRCS** field employees within the geographic range of threatened and endangered species will be continually alert to conditions, actions, or trends that may adversely affect the welfare of these species and report adverse situations to the state conservationist.

Source: http://www.access.gpo.gov/nara/cfr/waisidx_01/7cfr650_01.html

• **50 CFR 17.11 and 12 - Endangered and Threatened Wildlife and Plant Lists
(April 15, 1990)**

17.11 (a) The list in this section contains the names of all species of wildlife which have been determined by the Services to be Endangered or Threatened. It also contains the names of species of wildlife treated as Endangered or Threatened because they are sufficiently similar in appearance to Endangered or Threatened species (see Sec. 17.50 et seq.).

17.12 (a) The list in this section contains the names of all species of plants which have been determined by the Services to be Endangered or Threatened. It also contains the names of species of plants treated as Endangered or Threatened because they are sufficiently similar in appearance to Endangered or Threatened species (see Sec. 17.50 et seq.).

Source: http://www.access.gpo.gov/nara/cfr/waisidx_01/50cfr17_01.html

- **50 CFR 402 - Federal Consistency (June 3, 1986)**

(a) This part interprets and implements sections 7(a)-(d) [16 U.S.C. 1536(a)-(d)] of the Endangered Species Act of 1973, as amended ("Act"). Section 7(a) grants authority to and imposes requirements upon Federal agencies regarding endangered or threatened species of fish, wildlife, or plants ("listed species") and habitat of such species that has been designated as critical ("critical habitat"). Section 7(a)(1) of the Act directs Federal agencies, in consultation with and with the assistance of the Secretary of the Interior or of Commerce, as appropriate, to utilize their authorities to further the purposes of the Act by carrying out conservation programs for listed species. Such affirmative conservation programs must comply with applicable permit requirements (50 CFR parts 17, 220, 222, and 227) for listed species and should be coordinated with the appropriate Secretary.

Section 7(a)(2) of the Act requires every Federal agency, in consultation with and with the assistance of the Secretary, to insure that any action it authorizes, funds, or carries out, in the United States or upon the high seas, is not likely to jeopardize the continued existence of any listed species or results in the destruction or adverse modification of critical habitat. Section 7(a)(3) of the Act authorizes a prospective permit or license applicant to request the issuing Federal agency to enter into early consultation with the Service on a proposed action to determine whether such action is likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. Section 7(a)(4) of the Act requires Federal agencies to confer with the Secretary on any action that is likely to jeopardize the continued existence of proposed species or result in the destruction or adverse modification of proposed critical habitat. Section 7(b) of the Act requires the Secretary, after the conclusion of early or formal consultation, to issue a written statement setting forth the Secretary's opinion detailing how the agency action affects listed species or critical habitat. Biological assessments are required under section 7(c) of the Act if listed species or critical habitat may be present in the area affected by any major construction activity as defined in Sec. 404.02. Section 7(d) of the Act prohibits Federal agencies and applicants from making any irreversible or irretrievable commitment of resources which has the effect of foreclosing the formulation or implementation of reasonable and prudent alternatives which would avoid jeopardizing the continued existence of listed species or resulting in the destruction or adverse modification of critical habitat. Section 7(e)-(o)(1) of the Act provide procedures for granting exemptions from the requirements of section 7(a)(2). Regulations governing the submission of exemption applications are found at 50 CFR part 451, and regulations governing the exemption process are found at 50 CFR parts 450, 452, and 453.

(b) The U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) share responsibilities for administering the Act. The Lists of Endangered and Threatened Wildlife and Plants are found in 50 CFR 17.11 and 17.12 and the designated

critical habitats are found in 50 CFR 17.95 and 17.96 and 50 CFR part 226. Endangered or threatened species under the jurisdiction of the NMFS are located in 50 CFR 222.23(a) and 227.4. If the subject species is cited in 50 CFR 222.23(a) or 227.4, the Federal agency shall contact the NMFS. For all other listed species the Federal Agency shall contact the FWS.

Source: http://www.access.gpo.gov/nara/cfr/waisidx_01/50cfr402_01.html

- Departmental Regulation 9500-4 - Fish and Wildlife Policy (August 22, 1983)
- 54 FR 27984 - Endangered Species Protection Program (EPA notice of proposed program, July 3, 1989)
- Extension Service Update - Endangered Species Act (November - December 1988)
- Schamberger, M. and A. Farmer (USFWS). 1978. The Habitat Evaluation Procedures: Their Application in Project Planning and Impact Evaluation. Transcripts of 43rd North American Wildlife and Natural Resources Conference

FLOODPLAINS

• 7 CFR Part 650.25 Floodplain Management (July 30, 1979)

Through proper planning, flood plains can be managed to reduce the threat to human life, health, and property in ways that are environmentally sensitive. Most flood plains are valuable for maintaining agricultural and forest products for food and fiber, fish and wildlife habitat, temporary floodwater storage, park and recreation areas, and for maintaining and improving environmental values. NRCS technical and financial assistance is provided to land users primarily on non-Federal land through local conservation districts and other State and local agencies. Through its programs, NRCS encourages sound floodplain management decisions by land users.

Source: <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=7&PART=650&SECTION=25&YEAR=2001&TYPE=TEXT>

- Floodplain Management Guidelines for Implementing EO 11988 (43 FR 6030) (February 10, 1978)
- 390-V-NWSM 500 Watershed Manual
- 150-V-NBAPM 506 Floodplain Management Studies (August 1987)

- **7 CFR 622 - Watershed Projects**

This part sets forth the general policies for planning and carrying out watershed projects under Pub. L. 83-566, 68 Stat. 666 (16 U.S.C. 1001 et seq.) and flood prevention projects under Pub. L. 78-534, 58 Stat. 889 (33 U.S.C. 701b-1).

Source: http://www.access.gpo.gov/nara/cfr/waisidx_01/7cfr622_01.html

- **7 CFR 624 - Emergency Watershed Protection**

This part sets forth the requirements and procedures for Federal assistance administered by the Natural Resources Conservation Service (NRCS) under section 216, Pub. L. 81-516 and section 403 of Title IV of the Agricultural Credit Act of 1978, Pub. L. 95-334.

Source: http://www.access.gpo.gov/nara/cfr/waisidx_02/7cfr624_02.html

- **7 CFR 621 - River Basin Investigations and Surveys**

This part describes policies, requirements, and procedures governing the Department of Agriculture's (USDA's) investigations and surveys of watersheds of rivers and other waterways as a basis for developing coordinated programs. These activities are undertaken in cooperation with other Federal, State, and local agencies. The delegation of authority to the Natural Resources Conservation Service (NRCS) to provide national leadership for the conservation, development, and productive use of the Nation's soil, water, and related resources, including the activities treated in this part is found at Sec. 2.62 of this title.

Source: http://www.access.gpo.gov/nara/cfr/waisidx_02/7cfr621_02.html

- A Unified National Program for Floodplain Management, U.S. Water Resources Council (September 1979)
- EO 11988 - Floodplain Management (May 24, 1977)

- **TITLE 16—CONSERVATION**

- **16USC18 - WATERSHED PROTECTION AND FLOOD PREVENTION**

Sec. 1001. Declaration of policy

Erosion, floodwater, and sediment damages in the watersheds of the rivers and streams of the United States, causing loss of life and damage to property, constitute a menace to the national welfare; and it is the sense of Congress that the Federal Government should cooperate with States and their political subdivisions, soil or water conservation districts, flood prevention or control districts, and other local public agencies for the purpose of preventing such damages, of furthering the conservation, development, utilization, and disposal of water, and the conservation and utilization of land and thereby of preserving, protecting, and improving the Nation's land and water resources and the quality of the environment.

Amendments

1972--Pub. L. 92-419 expanded the declaration of policy to include conservation and utilization of land, improvement of land and water resources, and quality of the environment.

Short Title

Section 11 of act Aug. 4, 1954, as renumbered by act Aug. 7, 1956, ch. 1027, Sec. 1(g), 70 Stat. 1088, provided that: ``This Act [enacting this chapter, amending section 701b of Title 33, Navigation and Navigable Waters, and enacting provisions set out as notes under this section and section 701b of Title 33] may be cited as the `Watershed Protection and Flood Prevention Act'."

Source: <http://www.access.gpo.gov/uscode/uscmmain.html>

NATIONAL ENVIRONMENTAL POLICY ACT

- **National Environmental Policy Act (NEPA) Compliance PL 91-190 (January 1, 1970)** <http://ceq.eh.doe.gov/nepa/nepanet.htm> Source: <http://ceq.eh.doe.gov/nepa/regs/nepa/nepaeqia.htm>

The purposes of this Act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

- EO 11514 (March 15, 1970) - Protection and Enhancement of Environmental Quality
- 7 CFR Part 1b - NEPA (March 13, 1983)

This part supplements the regulations for implementation of the National Environmental Policy Act (NEPA), for which regulations were published by the Council on Environmental Quality (CEQ) in 40 CFR parts 1500 through 1508. This part incorporates and adopts those regulations.

(b) This part sets forth Departmental policy concerning NEPA, establishes categorical exclusions of actions carried out by the Department and its agencies, and sets forth those USDA agencies which are excluded from the requirement to prepare procedures implementing NEPA.

Source: http://www.access.gpo.gov/nara/cfr/waisidx_02/7cfr1b_02.html

- Title 190 GM Part 410 - Compliance with NEPA (March 30, 1984)

- 40 CFR Part 1500-1508 (July 1, 1986) - Regulations Implementing the Procedural Provisions of NEPA

See: http://www.access.gpo.gov/nara/cfr/waisidx_01/40cfr1500_01.html

- 7 CFR 650 Compliance with NEPA; Preparation of Environmental Impact Statements - Guidelines (Appendix III, Outline for Watershed Project EIS)

(a) This rule prescribes procedures by which NRCS is to implement the provisions of NEPA. The Natural Resources Conservation Service recognizes NEPA as the national charter for protection, restoration, and enhancement of the human environment. NEPA establishes policy, sets goals (Section 101), and provides means (Section 102) for carrying out this policy.

(b) The procedures included in this rule supplement CEQ's NEPA regulations, 40 CFR parts 1500-1508. CEQ regulations that need no additional elaboration to address NRCS-assisted actions are not repeated in this rule, although the regulations are cited as references. The procedures include some overlap with CEQ regulations. This is done to highlight items of importance for NRCS. This does not supersede the existing body of NEPA regulations.

(c) These procedures provide that--

(1) Environmental information is to be available to citizens before decisions are made about actions that significantly affect the human environment;

(2) NRCS-assisted actions are to be supported to the extent possible by accurate scientific analyses that are technically acceptable to NRCS;

(3) NRCS-prepared NEPA documents are to be available for public scrutiny; and

(4) Documents are to concentrate on the issues that are timely and significant to the action in question rather than amassing needless detail.

(d) Procedures for implementing NEPA are designed to ensure that environmental consequences are considered in decisionmaking. They allow NRCS to assist individuals and nonfederal public entities to take actions that protect, enhance, and restore environmental quality.

(e) These procedures make possible the early identification of actions that have significant effects on the human environment to avoid delays in decisionmaking.

Source: http://www.access.gpo.gov/nara/cfr/waisidx_02/7cfr650_02.html

- Council on Environmental Quality (CEQ) Scoping Guidance

- Inventory of Federal Agency Activities on Cumulative Impact Assessment and Summary of November 30, 1988 Interagency Meeting on Cumulative Impact Assessment (CEQ January 19, 1989)
- Guide for Environmental Assessment, Soil Conservation Service, 1977
- Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies, U.S. Water Resources Council, March 10, 1983.

NOTE: The Principles and Guidelines were superceded by the Standards and Guidelines promulgated during the Reagan Administration.

- **PL 91-224 (April 3, 1970) - The Environmental Quality Act Improvement Act of 1970.**

- **40 CFR 6.100-900 - Implementation of Procedures of NEPA (November 6, 1979)**

(a) The National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq., as implemented by Executive Orders 11514 and 11991 and the Council on Environmental Quality (CEQ) Regulations of November 29, 1978 (43 FR 55978) requires that Federal agencies include in their decision-making processes appropriate and careful consideration of all environmental effects of proposed actions, analyze potential environmental effects of proposed actions and their alternatives for public understanding and scrutiny, avoid or minimize adverse effects of proposed actions, and restore and enhance environmental quality as much as possible. The Environmental Protection Agency (EPA) shall integrate these NEPA factors as early in the Agency planning processes as possible. The environmental review process shall be the focal point to assure NEPA considerations are taken into account. To the extent applicable, EPA shall prepare environmental impact statements (EISs) on those major actions determined to have significant impact on the quality of the human environment. This part takes into account the EIS exemptions set forth under section 511(c)(1) of the Clean Water Act (Pub. L. 92-500) and section 7(c)(1) of the Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93-319).

(b) This part establishes EPA policy and procedures for the identification and analysis of the environmental impacts of EPA-related activities and the preparation and processing of EISs.

Source: http://www.access.gpo.gov/nara/cfr/waisidx_00/40cfr6_00.html

- Policies and Procedures for the Review of Federal Actions Impacting the Environment. United States Environmental Protection Agency (October 3, 1984).
- CEQ Guidance Regarding NEPA Regulations (July 22, 1983)
- 46 FR 18026 Forty Most-Asked Questions Concerning CEQ's NEPA Regulations (March 31, 1981); amended (May 27, 1986) to remove question 20.

POLLUTION PREVENTION (SPECIFIC ACT)

- **Pollution Prevention Act (42 U.S.C. 13101 and 13102, s/s et seq. (1990))**

The Pollution Prevention Act focused industry, government, and public attention on reducing the amount of pollution through cost-effective changes in production, operation, and raw materials use.

Opportunities for source reduction are often not realized because of existing regulations, and the industrial resources required for compliance, focus on treatment and disposal. Source reduction is fundamentally different and more desirable than waste management or pollution control.

Pollution prevention also includes other practices that increase efficiency in the use of energy, water, or other natural resources, and protect our resource base through conservation. Practices include recycling, source reduction, and sustainable agriculture.

Source: <http://www.epa.gov/region5/defs/html/ppa.htm>

SOILS AND FARMLAND PROTECTION

- **Farmland Protection Policy Act**

The purpose of this chapter is to minimize the extent to which Federal programs contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses, and to assure that Federal programs are administered in a manner that, to the extent practicable, will be compatible with State, unit of local government, and private programs and policies to protect farmland.

Source: http://www.access.gpo.gov/nara/cfr/waisidx_02/7cfr658_02.html

- **7 CFR 657 Prime and Unique Farmlands - Inventory (January 31, 1978)**

NRCS is concerned about any action that tends to impair the productive capacity of American agriculture. The Nation needs to know the extent and location of the best land for producing food, feed, fiber forage, and oilseed crops. In addition to prime and unique farmlands, farmlands that are of statewide and local importance for producing these crops also need to be identified.

Source: http://www.access.gpo.gov/nara/cfr/waisidx_02/7cfr657_02.html

- **7 CFR 12 Subpart B - Identification of Highly Erodible Land**

(a) Scope. This part sets forth the terms and conditions under which a person who produces an agricultural commodity on highly erodible land or designates such land for conservation use, plants an agricultural commodity on a converted wetland, or converts a wetland shall

be determined to be ineligible for certain benefits provided by the United States Department of Agriculture (USDA) and agencies and instrumentalities of USDA.

(b) Purpose. The purpose of the provisions of this part are to remove certain incentives for persons to produce agricultural commodities on highly erodible land or converted wetland and to thereby--

- (1) Reduce soil loss due to wind and water erosion;
- (2) Protect the Nation's long-term capability to produce food and fiber;
- (3) Reduce sedimentation and improve water quality; and
- (4) Assist in preserving the functions and values of the Nation's wetlands.

Source: http://www.access.gpo.gov/nara/cfr/waisidx_02/7cfr12_02.html

- 310 GM 400-404 Land Use (6/84)
- CEQ Memorandum on Agricultural Lands/Analysis Under NEPA (August 8, 1980), SCS National Bulletin 310-1-1
- 310 GM 600-604-National Agricultural Land Evaluation and Site Assessment (LESA) Handbook (January 1983)
- Title 180 National Food Security Act Manual, Part 511, Subparts C&D (Criteria for Highly Erodible Land and Determination of Highly Erodible Land (August 1988)
- U.S. Department of Agriculture Environmental Assessment Package and Final Regulatory Impact and Flexibility Analyses for the USDA Regulations Implementing the Highly Erodible Land Conservation Provisions of the Food Security Act of 1985 (Revised July 1987)
- U.S. Department of Agriculture Environmental Assessment for Conservation Reserve Program Authorized under the 1985 Farm Bill (January 8, 1986)
- **PL 74-46 as amended PL 74-461, Soil Conservation and Domestic Allotment Acts**
- Food Security Act of 1985, Section 1252 (16 USC 2004(b))
- **Watershed Protection and Flood Prevention Act, as amended (August 30, 1972)**
- **7 CFR 611 - Soil Surveys**

This part sets forth policy on soil survey operations of the Natural Resources Conservation Service (NRCS).

NRCS is responsible for soil survey activities of the U.S. Department of Agriculture (USDA). A soil survey provides (1) an orderly, on-the-ground, scientific inventory of soil resources according to their potentialities and problems of use, and (2) information about

each kind of soil in sufficient detail to meet all reasonable needs of farmers, agricultural technicians, community planners, engineers, and scientists in planning and transferring the findings of research and experience to specific land areas.

Source: http://www.access.gpo.gov/nara/cfr/waisidx_02/7cfr611_02.html

- **7 CFR 631 - Great Plains Conservation Program**

The Great Plains Conservation Program (GPCP) is a special program targeted to the total conservation treatment of farm or ranch units with the most severe soil and water resources problems. The purpose of the program is to assist farm, ranch and other land users to make changes in their cropping systems and land uses which are needed to conserve, develop, protect, and utilize the soil and water resources of their lands. This purpose is achieved by controlling erosion, conserving water, and adjusting land use to mitigate climatic, soil, topographic, flood, saline and other natural hazards.

(b) Program participation is voluntary and is carried out by applying a conservation plan encompassing an entire operating unit. A conservation plan is developed with the land user in consultation with the local conservation district and is used to establish a GPCP contract. This contract provides for cost sharing between the land user and the Secretary of Agriculture for applying needed land use adjustments and conservation treatment within a specified time schedule. The program is supplemental to, not a substitution for, other programs in the Great Plains area.

Source: http://www.access.gpo.gov/nara/cfr/waisidx_02/7cfr631_02.html

SOIL AND WATER CONSERVATION EFFORTS

- Sustainable Agriculture
- 180 GM, Issue 6 (Part 407) Sustainable Agriculture (December 1989)

WATER – SURFACE AND GROUND

- **Safe Drinking Water Act (42 U.S.C. s/s 300f et seq. (1974))**

The Safe Drinking Water Act was established to protect the quality of drinking water in the U.S. This law focuses on all waters actually or potentially designed for drinking use, whether from above ground or underground sources.

The Act authorized EPA to establish safe standards of purity and required all owners or operators of public water systems to comply with primary (health-related) standards. State governments, which assume this power from EPA, also encourage attainment of secondary standards (nuisance-related). Source: <http://www.epa.gov/region5/defs/html/sdwa.htm>

- **40 CFR 116 - Designation of Hazardous Substances**

116 - This regulation designates hazardous substances under section 311(b)(2)(A) of the Federal Water Pollution Control Act (the Act). The regulation applies to discharges of substances designated in Table 116.4.

- Guidance for State Implementation of Water Quality Standards for Clean Water Act Section 303(c)(2)(b) - Toxics Criteria (December, 1988)

- **Safe Drinking Water Act (as amended) - 42 USC 300f, Section 1428 - State Programs to Establish Wellhead Protection Areas**

- **Safe Drinking Water Act (as amended) - 42 USC 300f, Section 1424 - Sole Source Aquifer Designation**

- **40 CFR 149 - Sole Source Aquifers**

The purpose of this subpart is to provide criteria for identifying critical aquifer protection areas, pursuant to section 1427 of the Safe Drinking Water Act (SDWA).

Source: http://www.access.gpo.gov/nara/cfr/waisidx_01/40cfr149_01.html

- Wellhead Protection Programs: Tools for Local Governments (EPA 440/6-89-002)
- Memorandum of Understanding Between USDA and the Department of the Interior on Impact of Agricultural Practices on Groundwater Quality (data needs and information exchange)
- Agricultural Research Service (ARS) Strategic Groundwater Plan - Pesticides (February 1988)

WATER QUALITY

- **The Clean Water Act, as amended by the Water Quality Act of 1987, PL 100-4.**

- <http://www4.law.cornell.edu/uscode/33/ch26.html>

Growing public awareness and concern for controlling water pollution led to enactment of the Federal Water Pollution Control Act Amendments of 1972. As amended in 1977, this law became commonly known as the Clean Water Act. The Act established the basic structure for regulating discharges of pollutants into the waters of the United States. It gave EPA the authority to implement pollution control programs such as setting wastewater standards for industry. The Clean Water Act also continued requirements to set water quality standards for all contaminants in surface waters. The Act made it unlawful for any person to discharge any pollutant from a point source into navigable waters, unless a permit was obtained under its provisions. It also funded the construction of sewage

treatment plants under the construction grants program and recognized the need for planning to address the critical problems posed by nonpoint source pollution.

Subsequent enactment modified some of the earlier Clean Water Act provisions. Revisions in 1981 streamlined the municipal construction grants process, improving the capabilities of treatment plants built under the program. Changes in 1987 phased out the construction grants program, replacing it with the State Water Pollution Control Revolving Fund, more commonly known as the Clean Water State Revolving Fund. This new funding strategy addressed water quality needs by building on EPA-State partnerships. Source:

<http://www.epa.gov/region5/water/cwa.htm>

- EO 12088 (October 13, 1978) - Federal Compliance with Pollution Control Standards
- USDA Policy for Water Quality Protection (September 26, 1990)
- Secretary of Agriculture's Policy and Coordination Council; Interdisciplinary Crosswalk WQ Activities; Water Quality - SCS Technology Development and Transfer Flow Chart
- Project Planning for Water Quality (Midwest NTC Tech. Note 190-LI-5)
- Title 460 GM Part 401 - Water Quality Policy (April 1987)
- USDA-SCS. 1990. Water Quality Indicators Guide and Water Quality Field Guide.

- **Safe Drinking Water Act (42 U.S.C. s/s 300f et seq. (1974))**

The Safe Drinking Water Act was established to protect the quality of drinking water in the U.S. This law focuses on all waters actually or potentially designed for drinking use, whether from above ground or underground sources.

The Act authorized EPA to establish safe standards of purity and required all owners or operators of public water systems to comply with primary (health-related) standards. State governments, which assume this power from EPA, also encourage attainment of secondary standards (nuisance-related). Source: <http://www.epa.gov/region5/defs/html/sdwa.htm>

- **PL 99-339 - Safe Drinking Water Act Amendments of 1986 (June 19, 1986)**
- **40 CFR 141, 142, 143 - National Primary and Secondary Water Regulations (proposed May 22, 1989)**

141 - This part establishes primary drinking water regulations pursuant to section 1412 of the Public Health Service Act, as amended by the Safe Drinking Water Act (Pub. L. 93-523); and related regulations applicable to public water systems.

142 - This part sets forth, pursuant to sections 1413 through 1416, 1445, and 1450 of the Public Health Service Act, as amended by the Safe Drinking Water Act, Public Law 93-

523, regulations for the implementation and enforcement of the national primary drinking water regulations contained in part 141 of this chapter.

143 – This part establishes National Secondary Drinking Water Regulations pursuant to section 1412 of the Safe Drinking Water Act, as amended (42 U.S.C. 300g-1). These regulations control contaminants in drinking water that primarily affect the aesthetic qualities relating to the public acceptance of drinking water. At considerably higher concentrations of these contaminants, health implications may also exist as well as aesthetic degradation. The regulations are not Federally enforceable but are intended as guidelines for the States.

Sources: Start at - http://www.access.gpo.gov/nara/cfr/waisidx_99/40cfr143_99.html

- 54 FR 7599 (February 22, 1989) Drinking Water Health Advisories for Pesticides
- Guide to SCS Technical Assistance in Control of Agriculture-Related Pollutants - in NCPM(?)
- MOU Between Extension Service and SCS Relating to Implementation of USDA Water Quality Policies (June 3, 1988)
- Interim MOU Between SCS and EPA for Planning and Technical Assistance (October 29, 1988)

WETLANDS

- EO 11990 Protection of Wetlands (May 24, 1977)
- **40 CFR 230 - Section 404(b)(1) Guidelines for Specification of Disposal Sites for Dredged or Fill Material**

The purpose of these Guidelines is to restore and maintain the chemical, physical, and biological integrity of waters of the United States through the control of discharges of dredged or fill material.

Source: <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=40&PART=230&SECTION=1&YEAR=2001&TYPE=TEXT>

- **40 CFR 232 - Clean Water Act Section 404 Program Definition and Permit Exemptions (June 6, 1988)**

Part 232 contains definitions applicable to the section 404 program for discharges of dredged or fill material. These definitions apply to both the federally operated program and State administered programs after program approval. This part also describes those activities which are exempted from regulation. Regulations prescribing the substantive environmental criteria for issuance of section 404 permits appear at 40 CFR part 230.

Regulations establishing procedures to be followed by the EPA in denying or restricting a disposal site appear at 40 CFR part 231. Regulations containing the procedures and policies used by the Corps in administering the 404 program appear at 33 CFR parts 320-330. Regulations specifying the procedures EPA will follow, and the criteria EPA will apply in approving, monitoring, and withdrawing approval of section 404 State programs appear at 40 CFR part 233.

Source: <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=40&PART=232&SECTION=1&YEAR=2001&TYPE=TEXT>

- **33 CFR 320 - General Regulatory Policies;**

(a) Regulatory approach of the Corps of Engineers. (1) The U.S. Army Corps of Engineers has been involved in regulating certain activities in the nation's waters since 1890. Until 1968, the primary thrust of the Corps' regulatory program was the protection of navigation. As a result of several new laws and judicial decisions, the program has evolved to one involving the consideration of the full public interest by balancing the favorable impacts against the detrimental impacts. This is known as the "public interest review." The program is one which reflects the national concerns for both the protection and utilization of important resources.

Source: <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=33&PART=320&SECTION=1&YEAR=2001&TYPE=TEXT>

- Part 321 - Permits for Dams and Dikes in Navigable Waters of the United States

This regulation prescribes, in addition to the general policies of 33 CFR part 320 and procedures of 33 CFR part 325, those special policies, practices, and procedures to be followed by the Corps of Engineers in connection with the review of applications for Department of the Army (DA) permits to authorize the construction of a dike or dam in a navigable water of the United States pursuant to section 9 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401). See 33 CFR 320.2(a).

Dams and dikes in navigable waters of the United States also require DA permits under section 404 of the Clean Water Act, as amended (33 U.S.C. 1344). Applicants for DA permits under this part should also refer to 33 CFR part 323 to satisfy the requirements of section 404.

Source: <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=33&PART=321&SECTION=1&YEAR=2001&TYPE=TEXT>

- Part 322 - Permits for Structures or Work in or Affecting Navigable Waters of the U.S.

This regulation prescribes, in addition to the general policies of 33 CFR part 320 and procedures of 33 CFR part 325, those special policies, practices, and procedures to be followed by the Corps of Engineers in connection with the review of applications for

Department of the Army (DA) permits to authorize certain structures or work in or affecting navigable waters of the United States pursuant to section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) (hereinafter referred to as section 10). See 33 CFR 320.2(b). Certain structures or work in or affecting navigable waters of the United States are also regulated under other authorities of the DA. These include discharges of dredged or fill material into waters of the United States, including the territorial seas, pursuant to section 404 of the Clean Water Act (33 U.S.C. 1344; see 33 CFR part 323) and the transportation of dredged material by vessel for purposes of dumping in ocean waters, including the territorial seas, pursuant to section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (33 U.S.C. 1413; see 33 U.S.C. part 324). A DA permit will also be required under these additional authorities if they are applicable to structures or work in or affecting navigable waters of the United States. Applicants for DA permits under this part should refer to the other cited authorities and implementing regulations for these additional permit requirements to determine whether they also are applicable to their proposed activities.

Source: <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=33&PART=322&SECTION=1&YEAR=2001&TYPE=TEXT>

– Part 323 - Permits for Discharges of Dredged or Fill Material into Waters of the U.S.

This regulation prescribes, in addition to the general policies of 33 CFR part 320 and procedures of 33 CFR part 325, those special policies, practices, and procedures to be followed by the Corps of Engineers in connection with the review of applications for DA permits to authorize the discharge of dredged or fill material into waters of the United States pursuant to section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344) (hereinafter referred to as section 404). (See 33 CFR 320.2(g).) Certain discharges of dredged or fill material into waters of the United States are also regulated under other authorities of the Department of the Army. These include dams and dikes in navigable waters of the United States pursuant to section 9 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401; see 33 CFR part 321) and certain structures or work in or affecting navigable waters of the United States pursuant to section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403; see 33 CFR part 322). A DA permit will also be required under these additional authorities if they are applicable to activities involving discharges of dredged or fill material into waters of the United States. Applicants for DA permits under this part should refer to the other cited authorities and implementing regulations for these additional permit requirements to determine whether they also are applicable to their proposed activities.

Source: <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=33&PART=323&SECTION=1&YEAR=2001&TYPE=TEXT>

– Part 324 - Permits for Ocean Dumping of Dredged Material

This regulation prescribes in addition to the general policies of 33 CFR part 320 and procedures of 33 CFR part 325, those special policies, practices and procedures to be followed by the Corps of Engineers in connection with the review of applications for Department of the Army (DA) permits to authorize the transportation of dredged material by vessel or other vehicle for the purpose of dumping it in ocean waters at dumping sites designated under 40 CFR part 228 pursuant to section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (33 U.S.C. 1413) (hereinafter referred to as section 103). See 33 CFR 320.2(h). Activities involving the transportation of dredged material for the purpose of dumping in the ocean waters also require DA permits under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) for the dredging in navigable waters of the United States. Applicants for DA permits under this part should also refer to 33 CFR part 322 to satisfy the requirements of Section 10.

Source: <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=33&PART=324&SECTION=1&YEAR=2000&TYPE=TEXT>

– Part 325 - Definition of Waters of the United States

(a) General. The processing procedures of this part apply to any Department of the Army (DA) permit. Special procedures and additional information are contained in 33 CFR parts 320 through 324, 327 and part 330. This part is arranged in the basic timing sequence used by the Corps of Engineers in processing applications for DA permits.

Source: <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=33&PART=325&SECTION=1&YEAR=2001&TYPE=TEXT>

– Part 328 - Definition of Navigable Waters of the United States

This section defines the term "waters of the United States" as it applies to the jurisdictional limits of the authority of the Corps of Engineers under the Clean Water Act. It prescribes the policy, practice, and procedures to be used in determining the extent of jurisdiction of the Corps of Engineers concerning "waters of the United States." The terminology used by section 404 of the Clean Water Act includes "navigable waters" which is defined at section 502(7) of the Act as "waters of the United States including the territorial seas." To provide clarity and to avoid confusion with other Corps of Engineer regulatory programs, the term "waters of the United States" is used throughout 33 CFR parts 320 through 330. This section does not apply to authorities under the Rivers and Harbors Act of 1899 except that some of the same waters may be regulated under both statutes (see 33 CFR parts 322 and 329).

Source: Source: Start at - http://www.access.gpo.gov/nara/cfr/waisidx_01/33cfrv3_01.html

– Part 329 - Definition of Navigable Waters of the United States

This regulation defines the term "navigable waters of the United States" as it is used to define authorities of the Corps of Engineers. It also prescribes the policy, practice and procedure to be used in determining the extent of the jurisdiction of the Corps of Engineers and in answering inquiries concerning "navigable waters of the United States." This definition does not apply to authorities under the Clean Water Act which definitions are described under 33 CFR parts 323 and 328.

Source: Start at - http://www.access.gpo.gov/nara/cfr/waisidx_01/33cfrv3_01.html

- **7 CFR 12 Subpart C - Wetland Conservation**

Scope. This part sets forth the terms and conditions under which a person who produces an agricultural commodity on highly erodible land or designates such land for conservation use, plants an agricultural commodity on a converted wetland, or converts a wetland shall be determined to be ineligible for certain benefits provided by the United States Department of Agriculture (USDA) and agencies and instrumentalities of USDA.

Purpose. The purpose of the provisions of this part are to remove certain incentives for persons to produce agricultural commodities on highly erodible land or converted wetland and to thereby--

- (1) Reduce soil loss due to wind and water erosion;
- (2) Protect the Nation's long-term capability to produce food and fiber;
- (3) Reduce sedimentation and improve water quality; and
- (4) Assist in preserving the functions and values of the Nation's wetlands.

Source: <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=7&PART=12&SECTION=1&YEAR=2001&TYPE=TEXT>

- Title 180 National Food Security Act Manual, Second Edition (August 10, 1988) Part 512, Wetland Conservation, Subparts A-D (General, Criteria, Exemptions, and Use, Maintenance, Improvements)
- U.S. Department of Agriculture Environmental Assessment and Final Regulatory and Flexibility Analysis for the Wetland Provisions of the Food Security Act of 1985 (July 1987)
- Federal Manual for Identifying and Delineating Jurisdictional Wetlands (United States Army-Corps of Engineers, U.S. Environmental Protection Agency, United States Fish and Wildlife Service, Soil Conservation Service Cooperative Technical Publication) (January 1989)
- 300-V-NMCSPP-539 - Conservation Reserve Program
- 190 GM 410.26 Wetland Policy (March 1984)

- Ecological Sciences Technical Note No. 190-LI-6 - Treatment of Special Aquatic Sites in Environmental Evaluation (April 1990)
- MOA between U.S. EPA and the Department of the Army concerning the Determination of Mitigation under the Clean Water Act Section 404(b)(1) (February 6, 1990) and Memorandum for the Field regarding Clean Water Act Section 404 Regulatory Program and Agricultural Activities (May 3, 1990)
- **PL 87-732 - Wetland Drainage Assistance Limitation (October 2, 1962)**
- **PL 91-559 Water Bank Act (December 19, 1970)**
- **7 CFR 752 Water Bank Program**

(a) The regulations in this part set forth the terms and conditions for the Water Bank Program. The Secretary is authorized to enter into agreements and make payments to eligible persons in important migratory waterfowl nesting and breeding areas. Specified wetlands identified for the conservation of water or related uses on a conservation plan shall be developed in cooperation with the Soil and Water Conservation

District in which the lands are located.

(b) The objective of the Water Bank Program (hereinafter referred to in this part as the "program") is to preserve, restore, and improve the wetlands of the Nation, and thereby:

- (1) Conserve surface waters, (2) preserve and improve habitat for migratory waterfowl and other wildlife resources, (3) reduce runoff, soil and wind erosion, (4) contribute to flood control, (5) contribute to improved water quality and reduce stream sedimentation, (6) contribute to improved subsurface moisture, (7) reduce acres of new land coming into production and to retire lands now in agricultural production, (8) enhance the natural beauty of the landscape, and (9) promote comprehensive and total water management planning.

Source: <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=7&PART=752&SECTION=1&YEAR=2001&TYPE=TEXT>

- Analysis of EO 11990 - Protection of Wetlands
- Classification of Wetlands and Deepwater Habitats of the United States (WS/OBS-79/31) USFWS (December 1979)
- Wetland Values - Concepts and Methods for Wetlands Evaluation (Institute for Water Resources, Research Report 79-R1 (February 1979))

WILD AND SCENIC RIVERS

- 47 FR 39454 - National Wild and Scenic Rivers System; Final Revised Guidelines for Eligibility, Classification, and Management of River Areas (September 7, 1982)
- Selected Requirements and Activities Concerning Conservation of Existing and Potential Wild, Scenic, and Recreational River Segments
- Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory (CEQ memo, August 10, 1980)
- River Mileage and Classification for Components of the National Wild and Scenic Rivers System (November 1988)
- The Nationwide Rivers Inventory, National Park Service, January 1982
- Questions and Answers on the Wild and Scenic Rivers Program
- Outstand Rivers List, American Rivers, Inc. 1988

RECREATION LANDS

- Title 190 GM Part 409 - SCS Recreation Policy (November 1983)

- **7 CFR 650.23 - Natural Areas**

Background. (1) Natural areas are defined as land or water units where natural conditions are maintained insofar as possible. Natural conditions usually result from allowing ordinary physical and biological processes to operate with a minimum of human intervention. Manipulations may be required on natural areas to maintain or restore features that the areas were established to protect.

(2) Natural areas may be designated areas of Federal, non-Federal government, or privately controlled land. Designation may be formal as provided for under federal regulations for areas of federal land to be administered as natural areas or by foundations or conservation organizations specifically created to acquire and maintain natural areas. Designation may be informal in the case of private landowners who designate a specific area as a natural area and manage it accordingly. Several professional societies concerned with renewable natural resources encourage establishment of natural areas withdrawn from economic uses and recognition of natural areas maintained and managed in economic enterprises.

Source: <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=7&PART=650&SECTION=23&YEAR=2001&TYPE=TEXT>

- **7 CFR 650.24 - Scenic Beauty**

Contributions to scenic beauty are a normal product of NRCS work. Strip-cropping, field borders, field windbreaks, and ponds are examples. Emphasis is given to those soil and water conservation measures that contribute to a productive and efficient agriculture and increase the attractiveness of rural America and are in line with goals and objectives of conservation districts. This is best accomplished by considering the landscape visual resource when providing planning assistance to individual landowners, groups, units of government, and watershed and resource conservation development project sponsors. NRCS responsibilities in recreation also offer opportunities to develop the scenic beauty of the rural landscape. Department of Agriculture Secretary's Memorandum 1695, May 28, 1970, "Protecting and Improving The Quality of the Environment," includes scenic beauty as an objective of the Department's programs.

Source: <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=7&PART=650&SECTION=24&YEAR=2001&TYPE=TEXT>

PESTICIDES

– 190 GM 404, May 1981, Pesticides

- **Federal Insecticide, Fungicide, and Rodenticide Act, as amended 1988.**
- <http://www4.law.cornell.edu/uscode/7/ch6.html>

Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. s/s 136 et seq. (1972))

The primary focus of FIFRA was to provide federal control of pesticide distribution, sale, and use. EPA was given authority under FIFRA not only to study the consequences of pesticide usage but also to require users (farmers, utility companies, and others) to register when purchasing pesticides. Through later amendments to the law, users also must take exams for certification as applicators of pesticides. All pesticides used in the U.S. must be registered (licensed) by EPA. Registration assures that pesticides will be properly labeled and that if in accordance with specifications, will not cause unreasonable harm to the environment. Source: <http://www.epa.gov/region5/defs/html/fifra.htm>

- **40 CFR 156- Worker Protection Standards for Agricultural Pesticides (proposed July 8, 1988)**

This subpart prescribes statements that must be placed on the pesticide label and in pesticide labeling. These statements incorporate by reference the Worker Protection Standard, part 170 of this chapter. The requirements addressed in these statements are designed to reduce the risk of illness or injury resulting from workers' and pesticide handlers' occupational exposures to pesticides used in the production of agricultural plants

on agricultural establishments as defined in Sec. 170.3 of this chapter. These statements refer to specific workplace practices designed to reduce or eliminate exposure and to respond to emergencies that may arise from the exposures that may occur.

This subpart prescribes interim requirements that must be placed on the pesticide label and in pesticide labeling. These interim requirements pertain to restricted-entry intervals, personal protective equipment, and notification. On a case-by-case basis, these interim requirements will be reviewed and may be revised during reregistration or other agency review processes. Source: <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=40&PART=156&SECTION=200&YEAR=2001&TYPE=TEXT>

- **40 CFR 170 - Worker Protection Standards for Agricultural Pesticides (proposed July 8, 1988)**

This part contains a standard designed to reduce the risks of illness or injury resulting from workers' and handlers' occupational exposures to pesticides used in the production of agricultural plants on farms or in nurseries, greenhouses, and forests and also from the accidental exposure of workers and other persons to such pesticides. It requires workplace practices designed to reduce or eliminate exposure to pesticides and establishes procedures for responding to exposure-related emergencies. Source:

<http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=40&PART=170&SECTION=1&YEAR=2001&TYPE=TEXT>

OTHER

- **The Solid Waste Disposal Act as amended by the Hazardous and Solid Waste Act of 1984 (PL 98-616), the Safe Drinking Water Act Amendments of 1986 (PL 99-339) and the Superfund Amendment and Reauthorization Act of 1986 (PL 99-499)**
- **PL 94-469 - Toxic Substances Control Act, as amended (October 11, 1976); (15 USC 2601)**
 - 420-V National Sciences Manual, Issue 1 (Parts 500-501, March 13, 1984)
 - Guide for Estimating Participation in Conservation Operations and Watershed Protection Projects, Soil Conservation Service, South NTC, Series 1801, February 3, 1989.
- **7 CFR 613 - Plant Materials Centers**

This part provides Natural Resources Conservation Service (NRCS) policy on the operations of plant materials centers. The centers have responsibilities for assembling, testing, releasing, and providing for the commercial production and use of plant materials

for programs of soil, water, and related resource conservation and development. Source:
Start at - http://www.access.gpo.gov/nara/cfr/waisidx_02/7cfr613_02.html